## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS WACO DIVISION



## ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Before the Court is the Report and Recommendation of United States Magistrate Judge Jeffrey C. Manske. ECF No. 28. The Report recommends that this Court grant Defendant's Motion to Dismiss Plaintiff's Amended Complaint (ECF No. 14) and deny Plaintiff's Motion to Strike Defendant's Motion to Dismiss (ECF No. 15). The Report and Recommendation was filed on March, 29, 2023.

A party may file specific, written objections to the proposed findings and recommendations of the magistrate judge within fourteen days after being served with a copy of the report and recommendation, thereby securing *de novo* review by the district court. 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b). A district court need not consider "[f]rivolous, conclusive, or general objections." *Battle v. U.S. Parole Comm'n*, 834 F.2d 419, 421 (5th Cir. 1987) (quoting *Nettles v. Wainwright*, 677 F.2d 404, 410 n.8 (5th Cir. 1982) (en banc), *overruled on other grounds by Douglass v. United States Auto. Ass'n*, 79 F.3d 1415 (5th Cir. 1996)).

Plaintiff filed objections on April 12, 2023. ECF No. 30. Defendant filed a response to Plaintiff's objections on April 17, 2023. ECF No. 31. The Court has conducted a *de novo* review of the motion to dismiss, the motion to strike, the responses, the report and recommendation, the objections to the report and recommendation, the response to the objections, and the applicable

laws. After that thorough review, the Court is persuaded that the Magistrate Judge's findings and recommendation should be adopted.

IT IS THEREFORE ORDERED that the Report and Recommendation of United States

Magistrate Judge Manske, ECF No. 28, is ADOPTED.

IT IS FURTHER ORDERED that Plaintiff's objections are OVERRULED.

IT IS FURTHER ORDERED that Defendant's Motion to Dismiss (ECF No. 14) is GRANTED in accordance with the Report and Recommendation.

IT IS FINALLY ORDERED that Plaintiff's Motion to Strike Defendant's Motion to (ECF No. 15) is **DENIED**.

IT IS FINALLY ORDERED that Plaintiff's Amended Complaint is dismissed without prejudice.

**SIGNED** this 4th day of May, 2023.

ALAN D ALBRIGHT

UNITED STATES DISTRICT JUDGE